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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,017	03/13/2001	Otward M. Mueller		1566

7590 10/22/2003
Otward Mueller
96 Sweet Rd.
Ballston Lake, NY 12019-1804

EXAMINER

TOATLEY, GREGORY J

ART UNIT	PAPER NUMBER
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2836

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Applicati n No. 09/805,017	Applicant(s) OTWARD MUELLER	
	Examin r Gregory J. Toatley, Jr.	Art Unit 2836	

-- Th MAILING DATE of this c mmunication appears on the cover sh et with th correspond nc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>031301</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement received March 31, 2001 has been considered-in-part and entered into the application. See attached 1449. The US references have either been considered or have been listed on the examiner's PTO-892 as indicated. With the exception of the first document listed entitled "Cryogenic Power/Energy Distribution Systems ", the information disclosure statement filed fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of **each** U.S. and foreign patent; **each publication** or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. The other publications are not with the file. It has been placed in the application file, but the information referred to therein has not been considered.

Specification

2. The examiner respectfully suggests that the Applicant carefully review the specification for idiomatic and grammatical errors, which may have inadvertently overlooked.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1 – 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter

that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Beyond placing the circuitry in the cryogenic liquid tanks and the use of cooling pipes the applicant is silent regarding how the cryogenic cooling is effected on the circuitry. It is the understanding of the examiner that cryogenic cooling requires a level of control of the circulation of the cryogenic liquid in order to maintain the cryogenic temperature levels. This management of the cryogenic liquid is not disclosed. The drive circuitry of the motor claimed would run at high temperatures that would make the maintenance of a cryogenic temperature level difficult. Additionally the applicant has stated that the high temperature superconductive materials necessary to make their invention operable are not available (see page 2, line 31). Additionally the applicant has stated that fuel cell was not available at the time of filing which raise the question of whether or not the applicant was in possession of their invention at the time of filing. How are the cryo-elements listed in claim 6, 8, 13 and 14 made? Due to the deficiency raised by this rejection, examination of the claims based upon the prior will not be made at this time.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 3 and 5 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

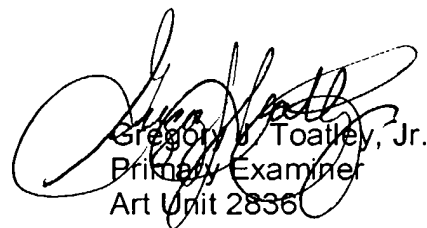
- Claim 3 recites the limitation "the fuel cell", which does not have explicit antecedent base in claim 1;
- Claim 5, recites the limitation "cryo-tanks", which does not have explicit antecedent basis in claim 1.

The examiner is aware that the applicant is referring to the tank with the cryogenic fluid, however it is not proper to use undefined abbreviated titles in the claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Toatley, Jr. whose telephone number is 703-308-7889. The examiner can normally be reached on Mon. - Fri. 7:00 a.m. to 3 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on (703) 308-3119. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.



Gregory J. Toatley, Jr.
Primary Examiner
Art Unit 2836

GJT Jr.